

SENATE BILL 1604

By Marrero

AN ACT to amend Tennessee Code Annotated, Title 10,  
Chapter 7, relative to open government.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 10-7-503(a)(2)(A), is amended by deleting the language “unless otherwise provided by state law.” and substituting instead the language:

unless otherwise provided by statute, constitution, common law, rule of court, or rule promulgated pursuant to a statute that authorizes an agency to prohibit public access to records.

SECTION 2. Tennessee Code Annotated, Section 10-7-505(c), is amended by designating the existing language as subdivision (1) and adding the following new subdivisions:

(2) Except as provided in subdivision (c)(3), nondisclosure of records sought may be justified by a:

(A) Statutory exemption, constitutional provision; or

(B) Common law, rule of court, or rule promulgated pursuant to a statute that authorizes an agency to prohibit public access to records.

(3) Common law, rule of court, or rule promulgated pursuant to a statute that authorizes an agency to prohibit public access to records shall not justify nondisclosure of records if:

(A) Such justification is based on a party’s involvement in civil litigation or a criminal proceeding, or contemplation of involvement in civil litigation or a criminal proceeding; and

(B) The records sought were in existence and available for public inspection prior to initiation or contemplation of any such litigation or proceeding.

(4) Nothing in subdivision (c)(3) shall be construed as altering or amending the statutory exemption from disclosure found in § 10-7-504(a)(5), the attorney-client privilege or the work product doctrine found in the Tennessee Rules of Civil Procedure.

SECTION 3. This act shall take effect July 1, 2011, the public welfare requiring it.